

Court of Appeals, State of Michigan

ORDER

In re C F, Minor

Docket No. 296115

LC No. 2010-000003-PW

Kathleen Jansen
Presiding Judge

Mark J. Cavanagh

Henry William Saad
Judges

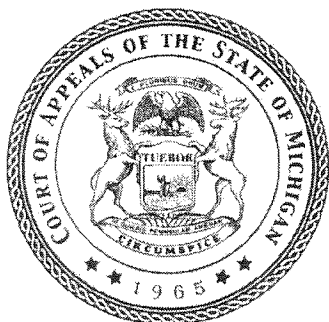
The Court orders that the January 20, 2010 order of the Macomb Circuit Court Family Division denying appellant's petition for waiver of parental consent is REVERSED. This order shall serve as the order granting waiver of parental consent required by the Parental Rights Restoration Act, MCL 722.901 *et seq.*, and shall remain valid for ninety days from the date of the clerk's certification of this order. The clerk shall provide plaintiff or plaintiff's attorney with two certified copies of this order. Nothing in this order shall require or permit an abortion that is otherwise prohibited by law. MCR 3.615(K)(1).

Under MCL 722.904(3) a court "shall grant a waiver of parental consent if it finds either" (a) that "[t]he minor is sufficiently mature and well-enough informed to make the decision regarding abortion independently of her parents or legal guardian," or (b) that "[t]he waiver would be in the best interests of the minor." The record presented shows that petitioner-appellant is 16 years of age, in eleventh grade at high school, and maintains a very high grade point average. She plans to graduate from high school and attend college. Plaintiff testified that she was emotionally and financially unable to have a child. She was fully informed of the abortion procedure, understood the degree of fetal development, the procedure that would be followed, and the risks involved. She also testified that her parents have a very negative attitude towards teenage pregnancy and abortion, and that her mother had previously threatened to eject her from the home if she ever became pregnant. Based on her parent's attitudes, she did not wish to inform them of her pregnancy. She gave a concise and rational explanation of why she wished to have an abortion, namely not to disrupt the course of her life and in order to proceed to attend college. In contrast, the record provides no evidence supporting the circuit court's conclusions that petitioner's parents "have demonstrated their love and affection for her," or that the petitioner's boyfriend and his mother were pressuring petitioner to have an abortion. Upon review of the entire record, we find that the circuit court clearly erred by concluding that petitioner was not sufficiently mature and well informed to make a decision independent of her parents.

Saad, J., dissents and states as follows: I respectfully dissent because 1) plaintiff has failed to meet her burden of proof; 2) the trial judge's ruling is not clearly erroneous; 3) the record does not establish that plaintiff met the statutory standard of being "sufficiently mature and well-enough informed to make the

decision regarding abortion independently of her parents or legal guardian.” MCL 722.903(1). I say this because the minor only sought counsel that reinforced her view and objective rather than seeking competing points of view. Also, there is insufficient evidence on the record to demonstrate that “waiver” is in the minor’s best interests. That is, her effort to keep her father and mother ignorant of a major development and a significant medical procedure in her life may ultimately prove contrary to her best interests and this aspect of the case is not sufficiently developed. And, this lack of development on this factor works against plaintiff because it is her burden of proof.

Accordingly, I respectfully dissent.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 26 2010
Date

Sandra Schultz Mengel
Chief Clerk